IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 958 OF 2004

Surya Kumar Raja. .... Appellant.

Versus.

Municipal Corporation of
Greater Mumbai & anr. .... Respondents.

Shri Atul P.Malgaonkar for the Appellant.

Shri J.Xavier for the Respondent No.1.

Shri V.Midha for the Respondent No.2.

CORAM : ABHAY S. OKA, J.

DATED : 17th January, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The first grievance made by the learned Counsel appearing for the Appellant is that the structure in question was demolished by the Respondent No.1-Corporation after notice of this Appeal was served in the office of the Respondent No.1-Corporation. He pointed out that he has therefore taken out a Civil Application for restoration of the structure.

2. The learned Counsel appearing for the Respondent No.1 states that the Notice of the Appeal was served in the Legal Department and copy thereof was not served in the concerned office of the Respondent No.1-Corporation. However, I am not deciding the question which is agitated by the learned Counsel for the Appellant as the Appellant can always approach the trial Court and pray

for appropriate mandatory relief.

3. At this stage the learned Counsel appearing for the Appellant prays for withdrawal of the Appeal with liberty to file appropriate application in the trial Court. Accordingly Appeal is dismissed as withdrawn with liberty to take out appropriate Application before the trial Court. All contentions on merits are kept open.

Judge.